

Chapter 20.20**Definitions**

Sections:

- 20.20.010 A definitions.
 20.20.012 B definitions.
 20.20.014 C definitions.
 20.20.034 M definitions.
 20.20.036 N definitions.
 20.20.044 R definitions.
 20.20.054 W definitions.

20.20.010 A definitions.

Adverse Impact

A condition that creates, imposes, aggravates, or leads to inadequate, unsafe, or unhealthy conditions on a site proposed for development or on off-tract property or facilities.

20.20.012 B definitions.

Best Management Practices (BMPs)

A system of practices and management measures that minimize adverse impacts to an identified resource.

20.20.014 C definitions.Compensatory Mitigation

Replacing project-induced losses or impacts to a critical area, and includes but is not limited to creation, re-establishment, rehabilitation, enhancement, and preservation.

Added for clarity, based on City of Edmonds code.

20.20.034 M definitions.

Mitigation

Avoiding, minimizing, or compensating for adverse critical areas impacts, including use of any or all of the following actions listed in descending order of preference:

- A. Avoiding the impact by not taking a certain action or parts of an action;
- B. Minimizing the impact by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce the impact;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected sensitive critical area or buffer to the conditions existing at the time of initiation of the project;
- D. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through biological, engineered, or other methods;

Update definition for clarity and consistency with recommended CAO definitions.

E. Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal;

~~EF.~~ Compensating for the impact by replacing, enhancing or providing substitute ~~sensitive~~ critical areas and environments; and

~~FG.~~ Monitoring the hazard or required mitigation impact and taking appropriate corrective measures when necessary.

Mitigation for individual actions may include a combination of the above measures.

20.20.036 N definitions.

Native Vegetation, Native Plant(s)

~~A tree, shrub or groundcover plant of a species that is native to western Washington. Vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest, which reasonably could have been expected to naturally occur on the site.~~

Update terminology and clarify definition for consistency with SMP and recommended CAO definitions.

20.20.044 R definitions.

Restoration

~~Returning~~ Measures taken to restore an altered or damaged ~~a stream, wetland, other sensitive~~ critical area or any associated buffer to a state in which its stability and functions approach its unaltered state as closely as possible; ~~including:~~

A. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and

B. Actions performed to reestablished structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Update terminology and clarify definition for consistency with SMP and recommended CAO definition.

20.20.054 W definitions.

~~Water Dependent Use~~

~~A land use which can only exist when the interface between wet meadows, grazed land and water provides the biological or physical conditions necessary for the use.~~

Water Dependent Use is only used in the SMP and is correctly defined for the SMP in 20.200.210. This definition is not used in Title 20.

Wetland Creation

The manipulation of the physical, chemical, or biological characteristics to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Creation results in a gain in wetland acreage and function. A typical action is the excavation of upland soils to elevations that will produce a wetland hydroperiod and hydric soils, and support the growth of hydrophytic plant species.

New definition from DOE Wetland Definitions.

Wetland Delineation

A technical procedure performed by a wetland specialist to determine the area of a wetland, ascertaining the wetland's classification, function, and value, and to define the boundary between a wetland and adjacent uplands. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved Federal wetland delineation manual and applicable regional supplements. All areas within the City meeting the wetland designation criteria in that procedure are hereby designated critical areas and are subject to the provisions of this program.

Move definition from SMP
20.210.010

Wetland Edge

The line delineating the outer edge of a wetland established based on the definitions and methods contained in Title 20.80, by using the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, 1987, jointly published by the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers and the U.S. Soil Conservation Service.

Definition out of date.

Wetland
Enhancement

The manipulation of the physical, chemical, or biological characteristics of a wetland to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Examples are planting vegetation, controlling non-native or invasive species, and modifying site elevations to alter hydroperiods.

New definition from DOE
Wetland Definitions.

Wetland Functions

Natural processes performed by wetlands including functions which are important in facilitating food chain production, providing habitat for nesting, rearing and resting sites for aquatic, terrestrial and avian species, maintaining the availability and quality of water, acting as recharge and discharge areas for ground water aquifers and moderating surface water and stormwater flows, as well as performing other functions.

| | | |
|---------------------------------|---|---|
| Wetland, Forested | A wetland which is characterized by woody vegetation at least 20 feet tall. | |
| Wetland, Isolated | A wetland which has a total size less than 2,500 square feet excluding buffers, which is hydrologically isolated from other wetlands or streams and which does not have permanent open water. | Remove critical area types/classifications from definitions and relocate/only include in specific critical area sections. |
| <u>Wetland Re-establishment</u> | <u>The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in rebuilding a former wetland and results in a gain in wetland acres and functions. Activities could include removing fill, plugging ditches, or breaking drain tiles.</u> | New definition from DOE Wetland Definitions. |
| <u>Wetland Rehabilitation</u> | <u>The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions and processes of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or returning tidal influence to a wetland.</u> | New definition from DOE Wetland Definitions. |
| Wetlands | Those areas in Shoreline which <u>that</u> are inundated or saturated by ground or surface water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. <u>Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.</u> | Update definition for consistency with definition deleted from SMP 20.210.010 and as required by RCW 36.70A.030(21) |

Chapter 20.80**Critical Areas**

Sections:

Subchapter 1. Critical Areas – General Provisions

20.80.030 Exemptions.

**Subchapter 1.
Critical Areas – General Provisions****20.80.030 Exemptions.**

The following activities shall be exempt from the provisions of this chapter:

~~E. Activities affecting isolated Type IV wetlands which are individually smaller than 1,000 square feet;~~

Provision E recommended to be deleted. BAS does not support exemption of small and/or isolated wetlands. The loss of small wetlands is the most common cumulative impact on wetlands and wildlife. The City does not currently have mechanism in place to mitigate or limit the cumulative impacts of this exemption. (*Ecology, 2005*).

Replace with language in wetlands subchapter 20.80.323(E) to allow for mitigated impact to small, isolated category IV wetlands where mitigation is provided for no net loss.

20.80.310 WETLANDS - Purpose.

A. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, bio-swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Typo corrections.

B. Wetlands help to maintain water quality; store and convey stormwater and floodwater; recharge ground water; provide important fish and wildlife habitat; and serve as areas for recreation, education, scientific study, and aesthetic appreciation.

C. The City's overall goal shall be to achieve no net loss of wetlands. This goal shall be implemented through retention of the function, value and acreage of wetlands within the City. Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide shading to maintain desirable water temperatures; provide habitat for wildlife; protect wetland resources from harmful intrusion; and generally preserve the ecological integrity of the wetland area.

D. The primary purpose of the wetland regulations is to avoid detrimental wetland impacts and achieve a goal of no net loss of wetland function, value, and acreage; and where possible enhance and restore wetlands.

20.80.320 WETLANDS - Designation, delineation, mapping, and classification rating.

A. ~~The identification of wetlands and the delineation of their boundaries shall be done in accordance with the Federal Wetland Delineation Manual and applicable regional supplements approved by the Washington State Department of Ecology per Identification and Delineation.~~ Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done in accordance with the approved Federal wetland delineation manual and applicable regional supplements per WAC 173-22-035. The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional. Wetland delineations are valid for five years; after such date the City Director shall determine whether a revision or additional assessment is necessary.

Replace/combine with regulations from SMP 20.230.030(C)(2)(a).

Existing section is essentially the same as the SMP designation statement. Edited statement of designation to provide protection for wetlands regardless of formal identification.

B. **Designation.** All areas identified as wetlands pursuant to

subsection A of this section, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

C. **Mapping.** The approximate location and extent of wetlands are shown in the following maps and inventories:

1. City of Shoreline, Basin Characterization Reports and Stream and Wetland Inventory and Assessment, Tetra Tech (May 2004);
2. City of Shoreline stormwater basin plans as completed and updated;
3. Wetland data layer maintained in the City of Shoreline geographic information system (GIS);
3. Soils maps produced by the US Department of Agriculture, National Resources Conservation Service; and
3. the National Wetlands Inventory, produced by the US Fish & Wildlife Service.

Added for specific map resources based on DOE example code.

The inventories and cited resources are to be used as a guide for the City of Shoreline, project applicants, and/or property owners, and may be continuously updated as new wetlands are identified or critical area reports are submitted for known wetlands. They are a reference and do not provide a final critical area designation.

~~C. Wetlands, as defined by this subchapter, shall be classified according to the following criteria:~~

Replace with regulations from SMP 20.230.030(C)(2)

~~1. "Type I wetlands" are those wetlands which meet any of the following criteria:~~

- ~~a. The presence of species proposed or listed by the Federal government or State of Washington as endangered, threatened, critical or priority, or the presence of critical or outstanding actual or potential habitat for those species; or~~
- ~~b. Wetlands having 40 percent to 60 percent open water in dispersed patches with two or more wetland subclasses of vegetation; or~~
- ~~c. High quality examples of a native wetland listed in the terrestrial and/or aquatic ecosystem elements of the Washington Natural Heritage Plan that are presently identified as such or are determined to be of heritage quality by the Department of Natural Resources; or~~
- ~~d. The presence of plant associations of infrequent occurrence. These include, but are not limited to, plant associations found in bogs and in wetlands with a coniferous forested wetland class or subclass occurring on organic soils.~~

~~2. "Type II wetlands" are those wetlands which are not Type I wetlands and meet any of the following criteria:~~

- a. ~~Wetlands greater than one acre (43,560 sq. ft.) in size;~~
 - b. ~~Wetlands equal to or less than one acre (43,560 sq. ft.) but greater than one half acre (21,780 sq. ft.) in size and have three or more wetland classes; or~~
 - c. ~~Wetlands equal to or less than one acre (43,560 sq. ft.) but greater than one half acre (21,780 sq. ft.) in size, and have a forested wetland class or subclasses.~~
3. ~~“Type III wetlands” are those wetlands that are equal to or less than one acre in size and that have one or two wetland classes and are not rated as Type IV wetlands, or wetlands less than one half acre in size having either three wetlands classes or a forested wetland class or subclass.~~
4. ~~“Type IV wetlands” are those wetlands that are equal to or less than 2,500 square feet, hydrologically isolated and have only one, unforested, wetland class. (Ord. 695 § 1 (Exh. A), 2014; Ord. 398 § 1, 2006; Ord. 238 Ch. VIII § 5(B), 2000).~~

D. Rating. Wetlands shall be rated by a qualified professional according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington (Ecology Publication No. 04-06-029, or as revised, and Wetlands Guidance for Small Cities Western approved by Ecology). All wetlands should be rated consistent with the 2014 Western Washington Rating Form, or as revised. These documents contain the definitions and methods for determining whether the criteria below are met. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the City, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities.

1. **Category I.** Category I wetlands are those that represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. The following types of wetlands are Category I:

- a. Relatively undisturbed estuarine wetlands larger than one acre;
- b. Wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high quality wetlands;
- c. Bogs;
- d. Mature and old-growth forested wetlands larger than one acre;
- e. Wetlands in undisturbed coastal lagoons; and
- f. Wetlands that perform many functions well (scoring 23 70 points or more based on functions).

2. **Category II.** Category II wetlands are those that are difficult, though not impossible to replace and provide high levels of some functions. The following types of wetlands are Category II:

Previously in SMP 20.230.030(C)(2)(b). Updated for use with 2014 Wetland Rating System for Western Washington based on *Guidance for Small Cities: Western Washington Version (Publication No. 10-06-002)*. Changes for 2014 rating system shown with strike through and double underline.

Category text format edited for clarity and ease of reading.

Wetlands previously rated will need to be reevaluated using the new rating and buffer standards as new applications are submitted.

- a. Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;
- b. Interdunal wetlands larger than one acre;
- c. Disturbed coastal lagoons; and
- d. Wetlands with a moderately high level of functions (scoring between ~~51-20~~ and ~~69-22~~ points based on functions).

3. **Category III.** Category III wetlands are those with a moderate level of functions, generally have been disturbed in some ways, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. The following types of wetlands are Category III:

- a. Wetlands with a moderate level of functions (scoring between ~~30-16~~ and ~~50-19~~ points based on functions); and
- b. Interdunal wetlands between 0.1 and one acre. Wetlands scoring between ~~30-16~~ and ~~50-19~~ points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

4. **Category IV.** Category IV wetlands are those with the lowest levels of functions (scoring ~~fewer than 30~~ below 16 points based on functions) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

E. **Illegal Modifications.** Wetland rating categories shall not change due to illegal modifications or alterations made by the applicant or with the applicant's knowledge.

Previously in SMP
20.230.030(C)(2)(c).

20.80.XXX WETLANDS Regulated Activities.

A. For any regulated activity, a critical areas report (see SMC 20.80.110) may be required to support the requested activity.

B. The following activities are regulated if they occur in a regulated wetland or its buffer:

- 1. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- 2. The dumping of, discharging of, or filling with any material;
- 3. The draining, flooding, or disturbing of the water level or water table;
- 4. Pile driving;
- 5. The placing of obstructions;
- 6. The construction, reconstruction, demolition, or expansion of any structure;
- 7. The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland;

Previously in SMP
20.230.030(C)(3). Section not required if applicability is applied to any permitted activity if a wetland or its buffer is present.

SMC 20.80.025 currently states that Chapter 20.80 applies to all land uses and within all zoning designations in the city and that no permit shall be issued without first assuring compliance with this chapter. This Regulated Activities section is an alternate approach to designating applicability and is not needed with 20.80.025.

~~8. “Class IV General Forest Practices” under the authority of the “1992 Washington State Forest Practices Act Rules and Regulations,” WAC 222 12-030, or as thereafter amended; and/or~~

~~9. Activities that result in:~~

~~a. A significant change of water temperature;~~

~~b. A significant change of physical or chemical characteristics of the sources of water to the wetland;~~

~~c. A significant change in the quantity, timing, or duration of the water entering the wetland; and/or~~

~~d. The introduction of pollutants.~~

20.80.323 WETLANDS – Development standards.

A. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this Title.

B. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. Additional exemptions are listed in, the provisions established in SMC 20.80.030 and 20.80.040, but do not apply within the shoreline jurisdiction. These activities do not require submission of a critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

~~1. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222 12 030, where State law specifically exempts local authority, except those developments requiring local approval for Class IV General Forest Practice Permits (conversions) as defined in Chapter 76.09 RCW and Chapter 222 12 WAC.~~

1.2. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.

2.3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

3.4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

4.5. Enhancement of a wetland through the select removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand labor and hand-held equipment removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. Not more than 500 square feet of area may be cleared, as

20.80.323 Added/edited from DOE example code to replace SMC 20.80.340 and to clarify when and how alteration of wetlands and buffers might be allowed.

Allowed Activities provisions moved from SMP.

Provision 1 not needed because there are no current forest practices sites permitted within City of Shoreline. No new ones allowed based on permitted uses in SMC Chapter 20.40 Subchapter 2.

Provision 4 moved from SMP is similar to SMC 20.80.030(B) but not the same. It is distinct enough to include here.

Provision 5 from SMP edited for clarity. King County Noxious Weed List includes species that are of concern locally, but not regulated state wide.

calculated cumulatively over one (1) year, on private property without a permit. All removed plant material shall be taken away from the site and disposed of appropriately. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds or the King County Noxious Weed List must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

~~6. Educational and scientific research activities.~~

~~7. Normal and routine maintenance and repair of any existing public or private facilities within an existing right of way; provided, that the maintenance or repair does not expand the footprint of the facility or right of way.~~

5. Permitted alteration to a legally constructed structure existing within a wetland or wetland buffer that does not increase the footprint of the development or hardscape or increase the impact to a wetland or wetland buffer.

C. **Category I wetlands.** Development activities and uses that result in alteration of Category I wetlands and their associated buffers shall be prohibited subject to the reasonable use provisions and special use provision of SMC 20.30.333 and 20.30.336, unless otherwise allowed by the exemptions or allowed activities provisions of this Title, or subject to the provisions of the Shoreline Master Program where the proposed development activity is located within the shoreline jurisdiction.

D. **Category II and III wetlands.** Development activities and uses that result in alteration of Category II and III wetlands is prohibited, unless the applicant can demonstrate that:

1. The basic project proposed cannot reasonable be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and
2. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction to the size, scope, configuration or density of the project are not feasible.

Full compensation for the loss of acreage and functions of wetland and buffers shall be provided in compliance with the mitigation performance standards and requirements of these regulations.

E. **Category IV wetlands.** Development activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the loss of acreage and functions of wetland and buffers shall be provided in compliance with the mitigation performance standards and requirements of these regulations.

F. **Small, hydrologically isolated Category IV wetlands.** The Director may allow small, hydrologically isolated Category IV wetlands to be exempt from the avoidance sequencing provisions of SMC 20.80.080 and SMC 20.80.323(D) and allow alteration of such wetlands provided that a submitted critical area report and mitigation plan provides evidence that all of the following conditions are met:

Provision 6 from SMP is already allowed through 20.80.030(K). Do not need here.

Provision 7 from SMP is similar to 20.80.030(C-D) but stated more simply. Consider replaced 20.80.030(C) and (D) with this language under general provisions.

New provision 5 similar to existing 20.80.040, but does not allow for increase in footprint/hardscape.

Provisions C, D, and E are edited language from SMC 20.80.340 Alterations to clearly state when alterations of wetlands and their buffers is prohibited, except by CARUP CASUP or Shoreline variance process, and when it is allowed with a development permit and compensatory mitigation.

Replacement language for SMC 20.80.030 Exemptions (E) to require compensation for the impacts. Language based on City of Edmonds code.

1. The wetland is less than one thousand (1,000) square feet in area;
2. The wetland is a low quality Category IV wetland;
3. The wetland does not provide significant habitat value for wildlife (score of less than 3 points in the adopted rating system) and is not located within a mapped priority habitat area or corridor;
4. The wetland is not adjacent to a riparian area and is hydrologically isolated from other wetlands or streams; and
5. A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with SMC 20.80.350.

GC. Subdivisions. The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:

1. Land that is located wholly within a wetland or its buffer may not be subdivided; and
2. Land that is located partially within a wetland or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot is:
 - a. Located outside of the wetland and its buffer; and
 - b. Meets the minimum lot size requirements of SMC Table 20.50.020(1).

20.80.326 WETLANDS - Critical Area Report requirements.

A. If the Director determines that the site of a proposed development includes, is likely to include, or is adjacent to a wetland, a wetland critical area report, prepared by a qualified professional, shall be required. The expense of preparing the wetland report shall be borne by the applicant. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area. In addition to the general critical area report requirements of SMC 20.80.110, critical area reports for wetlands must meet the requirements of this section.

B. Preparation by a Qualified Professional. Critical area reports for wetlands shall be prepared, consistent with SMC 20.80.110 and at the applicant's expense, by a qualified professional who is a certified wetland scientist or a non-certified wetland scientist with a minimum of five (5) years of experience in the field of wetland science and with experience preparing wetland reports. Third party review by a qualified profession under contract with the City will be required, at the applicant's expense in any of the following circumstances:

1. The project requires a critical area reasonable use permit, critical area special use permit, or shoreline variance application; or
2. Compensatory mitigation is required for impacts to Category I, II, or III wetlands and or buffers; or
3. Compensatory mitigation is required for impacts to Category IV wetlands.

C. Critical area report requirements for wetlands may be met in stages or through multiple reports. A wetland report may include one or more of the following

Previously in SMP 20.230.030(C)(3). Moved from Regulated activities section proposed for deletion above.

This is intended to supplement the general provisions for subdivisions and critical areas in SMC 20.80.050(B).

Previously in SMP 20.230.030(C)(5).

Text added/modified based on DOE example code and City of Edmonds code. SMP code did not have general report requirements to refer to in another section.

- Language regarding qualified wetlands scientist depends on how general provisions are modified. Currently City approval of qualified professional required based on review of application demonstrating experience which is more extensive than this proposal.

sections or report types depending on the information required by the Director and the extent of potential wetland impacts. The Director may determine which report(s) alone or combined are sufficient to meet the requirements below. The typical sequence of potentially required reports that may in part or in combination fulfill the requirements of the section include:

1. Wetland reconnaissance report documenting the existence and general location of wetlands in the vicinity of a project area;
2. Wetland delineation report documenting the extent, boundary and type of a wetland per SMC 20.80.320; and
3. Wetland mitigation report documenting potential wetland impacts and mitigation measures designed to retain or increase the functions and values of a wetland in accordance with SMC 20.80.350 and the general provisions of this title.

D. Minimum Standards for Wetland Reports. The written report and the accompanying plan sheets shall contain the following information, at a minimum:

1. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland critical area report; a description of the proposal; identification of all the local, State, and/or Federal wetland-related permit(s) required for the project; and a vicinity map for the project.
2. A statement specifying the accuracy of the report and all assumptions made and relied upon.
3. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, etc.
4. A description of the methodologies used to conduct the wetland delineations, rating system forms, or impact analyses including references.
5. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries using the best available information.
6. For each wetland identified on site and within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per wetland ratings (SMC 20.80.320(D)); required buffers (SMC 20.80.330); hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site.
7. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative.

This section (D) could be modified so that all general requirements are moved to 20.80.110, and only wetland specific requirements are listed here.

Formatting or editing could provide more clarity regarding report requirements.

The 300 foot provision for identification of critical areas is based on the maximum potential buffer size wetlands in the DOE example code.

8. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development.

9. A description of reasonable efforts made to apply mitigation sequencing pursuant to SMC 20.80.360(A) Mitigation Sequencing to avoid, minimize, and mitigate impacts to critical areas.

10. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity.

11. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions.

C. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.

D. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:

1. Maps (to scale) depicting delineated and surveyed wetland and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);

2. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project; and

3. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.

Duplicate provision in SMP.

E. A cost estimate for the installation of any required mitigation (including site preparation, plant materials, and installation, fertilizers, mulch, and stakes) and the proposed monitoring and maintenance work for the required number of years.

Information required for financial guarantee calculations.

20.80.330 WETLANDS - Required buffer areas.

A. ~~Required wetland buffer widths shall reflect the sensitivity of the area and resource or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity and site design proposed to be conducted on or near the critical area.~~

Replace with regulations from SMP 20.230.030(C)(4)

~~Wetland buffers shall be measured from the wetland's edge as delineated in accordance with the Federal Wetland Delineation Manual and applicable regional supplements approved by the Washington State Department of Ecology per WAC 173-22-035.~~

Buffer Requirements. The standard buffer widths in Table 20.30.330(A)(1) have been established in accordance with the best available science. They are based on the category of wetland and

Previously in SMP 20.230.030(C)(4)(a)

the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.

1. The use of the standard buffer widths requires the implementation of the measures in Table 20.80.330(A)(2), where applicable, to minimize the impacts of the adjacent land uses.
2. If an applicant chooses not to apply the mitigation measures in Table 20.80.330(A)(2), then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
3. The standard buffer widths assume that the buffer is ~~vegetated with a relatively intact native plant community appropriate for the ecoregion in the~~ buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the existing buffer is ~~unvegetated~~ bare ground, sparsely vegetated, or vegetated with nonnative or invasive species that do not perform needed functions, then the applicant must either develop and implement a wetland buffer restoration or enhancement plan to maintain the standard width - ~~the buffer should either be planted to create the appropriate plant community or~~ the buffer ~~should~~ must be widened to ensure that adequate functions of the buffer are provided.
4. Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring ~~32-9~~ points for habitat function would require a buffer of 225 feet (75 + 150).

Edited for clarity.

~~B. Wetland buffers shall be established as follows:~~

Table 20.80.330B

| Wetland Type | Standard Buffer Width (ft) | Minimum Buffer Width (ft) |
|---------------------|-----------------------------------|----------------------------------|
| Type I | 150 | 115 |
| Type II | 115 | 75 |
| Type III | 65 | 35 |
| Type IV | 35 | 25 |

Table 20.80.330(A)(1) Wetland Buffer Requirements

| Wetland Category | <u>Standard Buffer Width if wetland scores 3-4 habitat points</u> | <u>Additional buffer width if wetland scores 21-25 5 habitat points</u> | <u>Additional buffer width if wetland scores 26-29 6-7 habitat points</u> | <u>Additional buffer width if wetland scores 30-36 8-9 habitat points</u> |
|----------------------------------|--|--|--|--|
| Category I: Based on total score | 75 ft | Add 30 ft | Add 90 ft | Add 150 ft |
| Category I: Forested | 75 ft | Add 30 ft | Add 90 ft | Add 150 ft |
| Category I: Estuarine | NA | 150 ft (habitat scores not applicable) | | |

Previously SMP Table 20.230.031 Wetland Buffers for Western Washington. Updated for use with 2014 Wetland Rating System for Western Washington based on *Guidance for Small Cities: Western Washington Version (Publication No. 10-06-002)*. Changes for 2014 rating system shown with strike through and double underline.

This table can be formatted to list the total required buffer width rather than additional amount of buffer.

| <u>Wetland Category</u> | <u>Standard Buffer Width if wetland scores 3-4 habitat points</u> | <u>Additional buffer width if wetland scores 21-25 5 habitat points</u> | <u>Additional buffer width if wetland scores 26-29 6-7 habitat points</u> | <u>Additional buffer width if wetland scores 30-36 8-9 habitat points</u> |
|------------------------------------|---|---|---|---|
| | <u>NA</u> <u>NA</u> | | | |
| <u>Category II: Based on score</u> | <u>75 ft</u> | <u>Add 30 ft</u> | <u>Add 90 ft</u> | <u>Add 150 ft</u> |
| <u>Category III (all)</u> | <u>60 ft</u> | <u>Add 45 ft</u> | <u>Add 105 ft</u> | <u>NA Add 165 ft</u> |
| <u>Category IV (all)</u> | <u>40 ft (habitat scores not applicable)</u> <u>NA</u> <u>NA</u> <u>NA</u> | | | |

Table 20.80.330(A)(2) Required measures to minimize impacts to wetlands
(Measures are required, where applicable to a specific proposal)

| <u>Disturbance</u> | <u>Activities and Uses that Cause Disturbances</u> | <u>Required Measures to Minimize Impacts</u> |
|-----------------------------------|--|--|
| <u>Lights</u> | <ul style="list-style-type: none"> <u>Parking lots</u> <u>Warehouses</u> <u>Manufacturing</u> <u>Residential</u> | <ul style="list-style-type: none"> <u>Direct lights away from wetland.</u> |
| <u>Noise</u> | <ul style="list-style-type: none"> <u>Manufacturing</u> <u>Residential</u> | <ul style="list-style-type: none"> <u>Locate activity that generates noise away from wetland.</u> <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source.</u> <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10 ft heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.</u> |
| <u>Toxic runoff*</u> | <ul style="list-style-type: none"> <u>Parking lots</u> <u>Roads</u> <u>Manufacturing</u> <u>Residential areas</u> <u>Application of agricultural pesticides</u> <u>Landscaping</u> | <ul style="list-style-type: none"> <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered.</u> <u>Establish covenants limiting use of pesticides within 150 ft of wetland.</u> <u>Apply integrated pest management.</u> |
| <u>Stormwater runoff</u> | <ul style="list-style-type: none"> <u>Parking lots</u> <u>Roads</u> <u>Manufacturing</u> <u>Residential areas</u> <u>Commercial</u> <u>Landscaping</u> | <ul style="list-style-type: none"> <u>Retrofit stormwater detention and treatment for roads and existing adjacent development.</u> <u>Prevent channelized flow from lawns that directly enters the buffer.</u> <u>Use Low Intensity Development techniques (per PSAT publication on LID techniques).</u> |
| <u>Change in water regime</u> | <ul style="list-style-type: none"> <u>Impermeable surfaces</u> <u>Lawns</u> <u>Tilling</u> | <ul style="list-style-type: none"> <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.</u> |
| <u>Pets and human disturbance</u> | <ul style="list-style-type: none"> <u>Residential areas</u> | <ul style="list-style-type: none"> <u>Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion.</u> |

Previously SMP Table 20.230.032 Wetland Buffers for Western Washington. Updated for use with 2014 Wetland Rating System for Western Washington based on *Wetlands in Washington State Volume 2 – Protecting and Managing Wetlands (Ecology Publication No. 05-06-008), Appendix 8-C, modified to use with the 2014 Washington State Rating System for Western Washington*,. Changes for 2014 rating system shown with strike through and double underline.

| <u>Disturbance</u> | <u>Activities and Uses that Cause Disturbances</u> | <u>Required Measures to Minimize Impacts</u> |
|---|---|---|
| | | <ul style="list-style-type: none"> Place wetland and its buffer in a separate tract or protect with a conservation easement. |
| Dust | <ul style="list-style-type: none"> Tilled fields | <ul style="list-style-type: none"> Use best management practices to control dust. |
| Disruption of corridors or connections | | <ul style="list-style-type: none"> Maintain connections to off-site areas that are undisturbed. Restore corridors. |
| <u>* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.</u> | | |

~~C. The standard buffer width shall be established; provided, that the buffer may be reduced to the minimum buffer listed above if the applicant can demonstrate that a smaller area is adequate to protect the wetland functions and one or both of the following:~~

~~1. The proposed use and activities are considered low impact, and may include the following:~~

~~a. A site layout with no parking, outdoor storage, or use of machinery;~~

~~b. The proposed use does not involve usage or storage of chemicals; and~~

~~c. Passive areas are located adjacent to the subject buffer; and~~

~~d. Both the wetland and its buffer are incorporated into the site design in a manner which eliminates the risk of adverse impact on the subject critical area.~~

~~2. Wetland and buffer enhancement is implemented that will result in equal or greater wetland functions. This includes but is not limited to the following:~~

~~a. Enhancement of fish and wildlife habitat by incorporating structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and heron nesting areas.~~

~~b. Planting native vegetation that would increase value for fish and wildlife habitat, improve water quality, or provide aesthetic/recreational value.~~

~~D. When a wetland has salmonid fish use consistent with SMC 20.80.470, the corresponding wetland or stream buffer, whichever is greater, shall be established.~~

~~E. The City may extend the width of the buffer on the basis of site-specific analysis when necessary to achieve the goals of this subchapter.~~

5. Increased Wetland Buffer Area Width. Buffer widths shall be increased on a case-by-case basis as determined by the Director when a larger buffer is necessary to protect wetland functions and values. This

Replace with regulations from SMP 20.230.030(C)(6).

determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include, but not be limited to, the following criteria:

- a. The wetland is used by a plant or animal species listed by the Federal government or the State as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
- b. The adjacent land has slopes greater than 30-15 percent or is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
- c. The adjacent land has minimal vegetative cover. In lieu of increasing the buffer width where exiting buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with SMC 20.80.350 may be substituted.

~~F. Wetland buffer widths may be modified by averaging buffer widths as set forth herein. Buffer width averaging shall be allowed only where the applicant demonstrates to the City:~~

- ~~1. The ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;~~
- ~~2. That the total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging;~~
- ~~3. Buffer averaging will not result in a buffer width being reduced by more than 25 percent of the required buffer as set forth in Table 20.80.330B and in no case may the buffer be less than the stated minimum width.~~
- ~~4. A habitat survey shall be conducted within the area of concern in order to identify and prioritize highly functional fish and wildlife habitat within the study area.~~

~~The City may require buffer averaging to be designed to protect areas of greater sensitivity and function based on the recommendations of a wetland report prepared by a qualified professional.~~

6. Buffer averaging to improve wetland protection may be permitted when all of the following conditions are met:

- a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area;
- b. The buffer is increased adjacent to the higher functioning area of habitat or more sensitive portion of the wetland and decreased adjacent

to the lower functioning or less sensitive portion as demonstrated by a critical areas report from a qualified wetland professional;

c. The total area of the buffer after averaging is equal to the area required without averaging; and

d. The buffer at its narrowest point is never less than either three-fourths of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.

7. Averaging through a Critical Area Reasonable Use Permit consistent with SMC 20.30.333 or Critical Area Special Use Permit consistent with SMC 20.30.336 or a shoreline variance consistent with 20.220.040 may be permitted when all of the following are met:

a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;

b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a critical areas report from a qualified wetland professional;

c. The total buffer area after averaging is equal to the area required without averaging; and

d. The buffer at its narrowest point is never less than either three-fourths of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

Edited to allow for application of averaging outside of the SMP regulated shoreline.

B. To facilitate long-range planning using a landscape approach, the Director may identify and preassess wetlands using the rating system and establish appropriate wetland buffer widths for such wetlands. The Director will prepare maps of wetlands that have been preassessed in this manner.

Previously in SMP
20.230.030(C)(4)(a)(v)

C. **Measurement of Wetland Buffers.** All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. ~~Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.~~

See increased buffer widths for how to handle buffers that are not well vegetated with native vegetation.

D. **Buffers on Mitigation Sites.** All mitigation sites shall have buffers consistent with the buffer requirements of this chapter. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

E. **Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the mitigation bond (SMC 20.80.350(H)(2)(a)(viii).

F. **Impacts to Buffers.** Requirements for the compensation for impacts to buffers are outlined in SMC 20.80.350 of this section.

G. **Overlapping Critical Area Buffers.** If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

G. ~~Low impact uses and activities which are consistent with the~~

~~purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Examples of uses and activities which may be permitted in appropriate cases include trails constructed in a manner to reduce impervious surfaces, viewing platforms, and utility easements; provided, that any impacts to the buffer resulting from such permitted activities are fully mitigated. Uses permitted within the buffer shall be located as far from the wetland as possible.~~

H. Allowed Buffer Uses. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this chapter, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

1. **Conservation and Restoration Activities.** Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.

2. **Passive Recreation.** Passive recreation facilities designed and in accordance with an approved critical area report, including:

a. Walkways and trails; provided, that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer 25 percent of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five feet in width for pedestrian use only. Raised boardwalks utilizing nontreated pilings may be acceptable; and/or

b. Wildlife viewing structures.

3. Educational and scientific research activities.

4. Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way; provided, that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.

5. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops, and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

6. Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

7. Enhancement of a wetland through the select removal of nonnative invasive plant species. Removal of invasive plant species shall be restricted to hand labor and hand-held equipment ~~removal~~ unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. Not more than 1,500 square feet of area may be cleared, as calculated cumulatively over one (1) year, on private property without a permit. All removed plant material shall be taken away from the site and disposed of appropriately. Plants that appear on the Washington State Noxious Weed

These are similar to provisions in SMC 20.80.030 and in Activities allowed in wetlands. It may be feasible to consolidate these sections. One example is to refer to all activities allowed by SMC 20.80.XXX and then list only those things that are different.

Control Board list of noxious weeds or the King County Noxious Weed List must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

~~H. Stormwater management facilities, such as bio swales, may not be located within the minimum buffer area as set forth in Table 20.80.330B unless it is determined that the location of the facility will enhance the buffer area, and protect the wetland.~~

8. **Stormwater Management Facilities.** Stormwater management facilities are limited to stormwater dispersion outfalls and bioswales. They may be allowed within the outer 25 percent of the buffer of Category III or IV wetlands only; provided, that:

- a. No other location is feasible;
- b. The location of such facilities will not degrade the functions or values of the wetland; and
- c. Stormwater management facilities are not allowed in buffers of Category I or II wetlands.

9. **Nonconforming Uses.** Repair and maintenance of nonconforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

10. **Development Proposals within Physically Separated and Functionally Isolated Stream or Wetland Buffers.** Consistent with the definition of “buffers” (SMC 20.20.012), areas that are functionally isolated and physically separated from wetland due to existing, legally established roadways, paved trails eight (8) feet or more in width, or other legally established structures or paved areas eight (8) feet or more in width that occurs between the area in question and the wetland shall be considered physically isolated and functionally separated wetland buffer. Once determined by the Director based on a submitted critical area report to be a physically separated and functionally isolated wetland buffer, development proposals shall be allowed in these areas.

~~I. A regulated wetland and its associated buffer shall either be placed in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the City. The location and limitations associated with the wetland and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King County Department of Records. (Ord. 695 § 1 (Exh. A), 2014; Ord. 469 § 1, 2007; Ord. 398 § 1, 2006; Ord. 238 Ch. VIII § 5(C), 2000).~~

I. **Signs and Fencing of Wetlands and Buffers.**

1. **Temporary Markers.** The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to

Buffer functions are provided when the buffer is contiguous with the wetland. Buffer area on the opposite side of a road, path or building, do not benefit the wetland. This provision allows for development in areas where permanent improvements disconnect the project site and additional buffer would not benefit the wetland.

New allowed activities provision could be added to Allowed activities in general provisions and applied to streams as well.

Cross reference with 20.50.330(E).

inspection by the Director prior to the commencement of permitted activities during preconstruction meeting required under SMC 20.50.330(E). This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

2. **Permanent Signs.** As a condition of any permit or authorization issued pursuant to this chapter, the Director may require the applicant to install permanent signs along the boundary of a wetland or buffer.

Cross reference with 20.80.060.

a. Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another nontreated material of equal durability. Signs must be posted at an interval of one per lot or every 50 feet, whichever is less, and must be maintained by the property owner in perpetuity. The signs shall be worded consistent with the text specified in SMC 20.80.060 as follows or with alternative language approved by the Director.:

~~Protected Wetland Area Do Not Disturb
Contact the City of Shoreline Regarding Uses,
Restrictions, and Opportunities for Stewardship~~

b. The provisions of subsection (a) of this section may be modified as necessary to assure protection of sensitive features.

3. **Fencing.** Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat. Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances, provided that the Director may waive this requirement:

Clarifying language regarding when fencing is required added based on City of Edmonds code.

a. As part of any development proposal for subdivisions, short plats, multifamily, mixed use, and commercial development where the Director determines that such fencing is necessary to protect the functions of the critical area, provided that breaks in permanent fencing may be allowed for access to permitted buffer uses (SMC 20.80.330(H));

b. As part of development proposals for parks where the adjacent proposed use is active recreation and the Director determines that such fencing is necessary to protect the functions of the critical area;

c. When buffer averaging is part of a development proposal;

d. When buffer reductions are part of a development proposal; or

f. At the Director's discretion to protect the values and functions of a critical area.

20.80.340 Alteration.

A. **Type I Wetlands.** Alterations of Type I wetlands shall be prohibited subject to the reasonable use provisions and special use permit provision of this title.

B. **Type II, III and IV Wetlands.**

1. Any proposed alteration and mitigation shall

Replace with new regulations clarifying when alteration to wetlands or their buffers are allowed or not. See new SMC 20.80.326.

~~comply with the mitigation performance standards and requirements of these regulations; and~~

~~2. No net loss of wetland function and value may occur; and~~

~~3. Where enhancement or replacement is proposed, ratios shall comply with the requirements of this subchapter.~~

20.80.350 WETLANDS - Compensatory Mitigation performance standards and requirements.

~~A. **Appropriate Wetland Mitigation Sequence and Actions.** Where impacts cannot be avoided, and the applicant has exhausted feasible design alternatives, the applicant or property owner shall seek to implement other appropriate mitigation actions in compliance with the intent, standards and criteria of this section. In an individual case, these actions may include consideration of alternative site plans and layouts, reductions in the density or scope of the proposal, and/or implementation of the performance standards listed in this subchapter.~~

Replace with regulations from SMP 20.230.030(C)(6).

~~B. Impacts to wetland functions and values shall be mitigated. Mitigation actions shall be implemented in the preferred sequence: Avoidance, minimization, restoration and replacement. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:~~

~~1. All feasible and reasonable measures will be taken to reduce impacts and losses to the critical area, or to avoid impacts where avoidance is required by these regulations; and~~

~~2. The restored, created or enhanced critical area or buffer will be as available and persistent as the critical area or buffer area it replaces; and~~

~~In the case of wetlands and streams, no overall net loss will occur in wetland or stream functions and values.~~

A. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that the following actions have been taken. Actions are listed in the order of preference:

Previously in SMP 20.230.030(C)(6).

1. Avoid the impact altogether by not taking a certain action or parts of an action.

2. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.

3. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

4. Reduce or eliminate the impact over time by preservation and maintenance operations.

5. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.

6. Monitor the required compensation and take remedial or corrective measures when necessary.

B. Requirements for Compensatory Mitigation.

1. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised.
2. Mitigation ratios shall be consistent with SMC 20.80.350(G).
3. Mitigation requirements may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Operational Draft” (Ecology Publication No. 10-06-011, February 2011, or as revised) consistent with SMC 20.80.350(G).

C. Compensating for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions. The goal shall be for the compensatory mitigation to provide similar wetland functions as those lost, except when either:

1. The lost wetland provides minimal functions, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

D. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

1. Restoration (reestablishment and rehabilitation) of wetlands.
2. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.
3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.
4. **Preservation.** Preservation of high quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1:1 acreage replacement is provided by reestablishment or creation. Preservation of high quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are

met:

- a. Wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA listed species;
 - b. There is no net loss of habitat functions within the watershed or basin;
 - c. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost; and
 - d. The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low functioning system (Category III or IV wetland).
- All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.

C. Location and Timing of Wetland Mitigation.

- ~~1. Wetland mitigation shall be provided on site, unless on-site mitigation is not scientifically feasible due to the physical features of the property. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on site.~~
- ~~2. When mitigation cannot be provided on site, mitigation shall be provided in the immediate vicinity of the permitted activity on property owned or controlled by the applicant such as an easement, provided such mitigation is beneficial to the critical area and associated resources. It is the responsibility of the applicant to obtain title to off site mitigation areas.~~
- ~~3. In kind mitigation shall be provided except when the applicant demonstrates and the City concurs that greater functional and habitat value can be achieved through out of kind mitigation.~~
- ~~4. Only when it is determined by the City that subsections (C)(1), (2), and (3) of this section are inappropriate and impractical shall off site, out of kind mitigation be considered.~~
- ~~5. When wetland mitigation is permitted by these regulations on site or off site, the mitigation project shall occur near an adequate water supply (river, stream, ground water) with a hydrologic connection to the proposed wetland mitigation area to ensure successful development or restoration.~~
- ~~6. Any agreed upon mitigation proposal shall be completed prior to project construction, unless a phased schedule that assures completion concurrent with project construction, has been approved by the City.~~
- ~~7. Wetland acreage replacement ratios shall be as specified in this section.~~

Replace with regulations
from SMP
20.230.030(C)(6)(e)

~~8. When wetland mitigation is permitted by these regulations, native plant materials salvaged from the original wetland area shall be utilized to the maximum extent possible.~~

E. Type and Location of Compensatory Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

Previously in SMP
20.230.030(C)(6)(e).

1. There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
3. Off-site locations shall be in the same sub-drainage basin unless:
 - a. Watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site.; ~~or~~
 - b. ~~Credits from a State certified wetland mitigation bank are used as compensation, and the use of credits is consistent with the terms of the bank's certification.~~
4. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.

There is currently no wetland bank located within the WRIA 8, let alone in the City. So mitigation through wetland banking would result in net loss of wetland acreage, functions and values within the City and is inconsistent with the purpose and intent of these regulations.

F. Timing of Compensatory Mitigation. It is preferred that compensatory mitigation projects be completed prior to activities that will disturb wetlands. At the least, compensatory mitigation shall be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

1. The Director may authorize a one-time temporary delay in completing

construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified wetland professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g., project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the compensatory mitigation plan. The justification must be verified and approved by the City.

D. ~~Wetland Replacement Ratios.~~

- ~~1. Where wetland alterations are permitted by the City, the applicant shall restore or create areas of wetlands in order to compensate for wetland losses. Equivalent areas shall be determined according to acreage, function, type, location, timing factors and projected success of restoration or creation.~~
- ~~2. When creating or enhancing wetlands, the following acreage replacement ratios shall be used:~~

Table 20.80.350D

| Wetland Type | Wetland Creation- Replacement Ratio (Area) | Wetland- Enhancement- Ratio (Area) |
|---------------------|---|---|
| Type I | 6:1 | 16:1 |
| Type II | 3:1 | 12:1 |
| Type III | 2:1 | 8:1 |
| Type IV | 1.5:1 | 6:1 |

~~The Department shall have discretion to increase these standards where mitigation is to occur off site or in other appropriate circumstances based on the recommendations of a wetlands report that includes best available science and is prepared by a qualified professional.~~

- ~~3. Enhanced wetlands shall have higher wetland values and functions than the altered wetland. The values and functions transferred shall be of equal or greater quality to assure no net loss of wetland values and functions.~~
- ~~4. Enhanced and created wetlands shall be appropriately classified and buffered.~~
- ~~5. An enhanced or created wetland and its associated buffer shall be placed either in a separate tract on which development is prohibited, protected by execution of an easement, dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective~~

~~mechanism acceptable to the City and shall be recorded with the King County Department of Records.~~

G. Wetland Mitigation Ratios¹.

| <u>Category and Type of Wetland²</u> | <u>Creation or Reestablishment</u> | <u>Rehabilitation</u> | <u>Enhancement</u> | <u>Preservation</u> |
|--|---|------------------------------|---------------------------|----------------------------|
| <u>Category I: Bog, Natural Heritage site</u> | <u>Not considered possible</u> | <u>6:1</u> | <u>Case by case</u> | <u>10:1</u> |
| <u>Category I: Mature forested</u> | <u>6:1</u> | <u>12:1</u> | <u>24:1</u> | <u>24:1</u> |
| <u>Category I: Based on functions</u> | <u>4:1</u> | <u>8:1</u> | <u>16:1</u> | <u>20:1</u> |
| <u>Category II</u> | <u>3:1</u> | <u>6:1</u> | <u>12:1</u> | <u>20:1</u> |
| <u>Category III</u> | <u>2:1</u> | <u>4:1</u> | <u>8:1</u> | <u>15:1</u> |
| <u>Category IV</u> | <u>1.5:1</u> | <u>3:1</u> | <u>6:1</u> | <u>10:1</u> |

¹ Ratios for rehabilitation and enhancement may be reduced when combined with 1:1 replacement through creation or reestablishment. See Table 1a or 1b, Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance – Version 1 (Ecology Publication No. 06-06-011a, Olympia, WA, March 2006 or as revised).

²Category and type of wetland as determined consistent with SMC 20.80.320(D).

~~**E. Wetlands**~~ **H. Mitigation Performance Standards.** The performance standards in this section shall be incorporated into mitigation plans submitted to the City for impacts to critical areas. ~~In addition, the City may prepare a technical manual which includes guidelines and requirements for report preparation.~~ The following performance standards shall apply to any mitigations proposed within ~~Type Category I, Type-II, Type-III and Type-IV~~ wetlands and their buffers. Modifications to these performance standards consistent with the guidance in *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised) may be considered for approval by the Director as alternatives to the following standards.

1. Plants indigenous to the region (not introduced or foreign species) shall be used.
2. Plant selection shall be consistent with the existing or projected hydrologic regime, including base water levels and stormwater event fluctuations.
3. Plants should be commercially available or available from local sources.
4. Plant species high in food and cover value for fish and wildlife shall be used.
5. Mostly perennial species should be planted.
6. Committing significant areas of the site to species that have questionable potential for successful establishment shall be avoided.
7. Plant selection must be approved by a qualified consultant.

These standards still seem relevant and useful as criteria for mitigation plans. Added language to refer to existing manual with guidelines for mitigation plans and performance standards..

8. The following standards shall apply to wetland design and construction:
 - a. Water depth shall not exceed six and one-half feet (two meters).
 - b. The grade or slope that water flows through the wetland shall not exceed six percent.
 - c. Slopes within the wetland basin and the buffer zone shall not be steeper than 3:1 (horizontal to vertical).
 - d. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark.
9. Substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals or solid/hazardous wastes) inorganic/organic materials.
10. Planting densities and placement of plants should be determined by a qualified consultant and shown on the design plans.
11. The planting plan shall be approved by the City.
12. Stockpiling should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with City clearing and grading standards, unless otherwise approved by the City.
13. Planting instructions shall be submitted which describe proper placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.
14. Controlled release fertilizer shall be applied (if required) at the time of planting and afterward only as plant conditions warrant (determined during the monitoring process).
15. An irrigation system shall be installed, if necessary, for the initial establishment period.
16. All construction specifications and methods shall be approved by a qualified consultant and the City.
17. Construction management shall be provided by a qualified consultant. Ongoing work on-site shall be inspected by the City.

H. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan prepared by a qualified professional shall be required, meeting the following minimum standards:

1. **Wetland Critical Area Report.** A critical area report for wetlands must accompany or be included in the compensatory mitigation plan and include the minimum parameters described in SMC 20.80.326(D) the “Minimum

Previously in SMP
20.230.030(C)(6)(h-i).

Standards for Wetland Reports” section of this chapter.

2. Compensatory Mitigation Report. The report, prepared by a qualified professional, must include a written report and plan sheets that must contain, at a minimum, the elements listed below. Full guidance can be found in *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1)* (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised).

a. The written report must contain, at a minimum:

i. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the compensatory mitigation report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, State, and/or Federal wetland-related permit(s) required for the project; and a vicinity map for the project;

ii. Description of how the project design has been modified to avoid, minimize, or reduce adverse impacts to wetlands;

iii. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings (SMC 20.80.320(D));

iv. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession?);

v. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands;

vi. A description of the proposed mitigation construction activities, construction/installation notes, and timing of activities;

vii. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);

viii. A cost ~~and~~ estimate for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice per year for up to five years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring; and

ix. Proof of establishment of notice on title for the wetlands and

buffers on the project site, including the compensatory mitigation areas.

b. The scaled plan sheets for the compensatory mitigation must contain, at a minimum:

i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;

ii. Existing topography, ground-processed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;

iii. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;

iv. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;

v. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter;

vi. A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, typical plant installation details and notes, total number of each species by community type, timing of installation; and

vii. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule plan, contingency plan, and maintenance schedule and actions by each biennium consistent with SMC 20.80.350(H) and (K).

I. **Buffer Mitigation Ratios.** Impacts to buffers shall be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.

FJ. Approved Wetland Mitigation Projects – Signature. On completion of construction, any approved mitigation project shall be signed off by the applicant's qualified ~~consultant~~ professional and approved by the City. Signature of the qualified ~~consultant~~ professional and approval by the City will indicate that the construction has been completed as planned.

Section retained from original for clear approval process. Terms corrected for accuracy.

G.K. Monitoring Program and Contingency Plan.

1. A monitoring program shall be included in the mitigation plan and implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program shall determine if the original goals and objectives of the mitigation plan are being met.

Monitoring requirements could be covered in general critical area provisions rather than in each specific critical area section.

2. A contingency plan shall be established for indemnity in the event that the mitigation project is inadequate or fails. A performance and maintenance bond or other acceptable financial guarantee is required to ensure the applicant's compliance with the terms of the mitigation agreement. The amount of the performance and maintenance bond(s) shall equal 125 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The bond may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

Financial guarantee language is not aligned with current city financial guarantee procedures/policy. Consider rewording.

3. Monitoring programs prepared to comply with this section shall ~~reflect~~ include the following ~~guidelines~~ requirements:

a. ~~Scientific procedures shall be used to establish the success or failure of the project. A protocol outlining the schedule for site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met.~~

Added based on DOE example code and guidance.

b. For vegetation determinations, permanent sampling points shall be established.

~~c. Vegetative success shall, at a minimum, equal 80 percent survival of planted trees and shrubs and 80 percent cover of desirable understory or emergent plant species at the end of the required monitoring period. Additional standards for vegetative success, including (but not limited to) minimum survival standards following the first growing season, may be required after consideration of a report prepared by a qualified consultant.~~

c. Standards for success shall be established based on the performance standards identified and the functions and values being mitigated based on the guidance in *Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, Olympia, WA, March 2006 or as revised)*.

Edited/Added based on DOE example code and guidance.

d. Monitoring reports on the current status of the mitigation project shall be submitted to the City on the schedule identified in the monitoring plan, but not less than every other year. The reports are to be prepared by a qualified consultant and reviewed by the City or a consultant retained by the City and should include monitoring information on wildlife, vegetation, water quality, water

flow, stormwater storage and conveyance, and existing or potential degradation, as applicable, ~~and shall be produced on the following schedule: at the time of construction; 30-days after planting; early in the growing season of the first year; at the end of the growing season of the first year; twice during the second year; and annually thereafter.~~

- e. Monitoring programs shall be established for a period necessary to establish that performance standards have been met, but not for less than a minimum of five years without approval from the Director.
- f. If necessary, failures in the mitigation project shall be corrected.
- g. Dead or undesirable vegetation shall be replaced with appropriate plantings.
- h. Damage caused by erosion, settling, or other geomorphological processes shall be repaired.
- i. The mitigation project shall be redesigned (if necessary) and the new design shall be implemented and monitored, as in subsection ~~(G)(3)(d)~~ (K)(3)(d) of this section.
- j. Correction procedures shall be approved by a qualified consultant and the City.

k. If the mitigation goals are not obtained within the initial monitoring period, the applicant remains responsible for restoration of the wetland values and functions until the mitigation goals agreed to in the mitigation plan are achieved.

Added based on DOE example code and guidance.

20.80.360 WETLANDS - Unauthorized alterations and enforcement.

A. When a wetland or its buffer has been altered in violation of this Chapter, the provisions of SMC Chapter 20.30, Subchapter 9 - Code Enforcement, apply.

B. Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in Subsection (C). The Director shall, at the violator's expense, seek advice from a qualified professional in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum Performance Standards for Restoration. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:

1. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.
2. The historic soil types and configuration shall be restored to the extent practicable.

The code enforcement provisions in SMC Chapter 20.30, Subchapter 9-Code enforcement provide the authority and process for code enforcement of Chapter 20.80 Critical Area violations, but is not very specific regarding how the violation must be corrected. The recommended provisions in 20.80.360 are based on the WA DOE example code and edited so the provisions do not duplicate the regulations already existing in Subchapter 9.

3. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration.

4. Information demonstrating compliance with other applicable provisions of this Chapter shall be submitted to the Director.

D. Site Investigations. The Director is authorized to make site inspections and take such actions as are necessary to enforce this Chapter. The Director shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.

E. Penalties. The provisions of SMC 20.30.770 through 20.30.790 apply to unauthorized alterations of a wetland or its buffer.

1. If the wetland affected cannot be restored, monies collected as penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected wetland is located. The City may coordinate its preservation or restoration activities with other cities in the watershed to optimize the effectiveness of the restoration action.